## REMARKS

The Non-final Office Action mailed June 9, 2010, has been received and reviewed. Prior to the present communication, claims 1-21 and 24-30 were pending in the subject application. Claims 1-21 and 24-30 stand rejected under 35 U.S.C. § 103(a). Each of claims 6, 7, 10, 12, and 21 has been amended herein, while claim 15 has been cancelled. Thus, claims 1-14, 16-21, and 24-30 remain pending. It is submitted that no new matter has been added by way of the present amendments. Reconsideration of the subject application is respectfully requested in view of the above amendments and the following remarks.

**Rejections based on 35 U.S.C. § 103**

A.) Applicable Authority

Title 35 U.S.C. § 103(a) declares, a patent shall not issue when "the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains." The Supreme Court in Graham v. John Deere counseled that an obviousness determination is made by identifying: the scope and content of the prior art; the level of ordinary skill in the prior art; the differences between the claimed invention and prior art references; and secondary considerations.[1] To support a finding of obviousness, the initial burden is on the Office to apply the framework outlined in Graham and to provide some articulated reason, suggestion, or motivation, found either in the prior art references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the prior art reference or to combine prior art reference teachings to produce the claimed invention.[2]

[1] *Graham v. John Deere Co.*, 383 U.S. 1 (1966).
[2] *See, Application of Bergel,* 292 F. 2d 955, 956-957 (1961).

B.) Obviousness rejection based upon U.S. Publication No. 2003/0046161 to Kamangar et al. in view of U.S. Publication No. 2003/0220837 to Asayama and further in view of U.S. Publication No. 2005/0028188 to Latona et al.

Claims 1-8, 12-21 and 24-30 stand rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Publication No. 2003/0046161 to Kamangar et al. (hereinafter the "Kamangar reference") in view of U.S. Publication No. 2003/0220837 to Asayama (hereinafter the "Asayama reference") and further in view of U.S. Publication No. 2005/0028188 to Latona et al. (hereinafter the "Latona reference"). As the asserted combination of references fails to teach or suggest all of the features set forth in the rejected claims, Applicant respectfully traverses the rejection as hereinafter set forth.

**CLAIM 1**

Independent claim 1 recites, at least in part, "determining… a paid yield associated with the paid listing based on **multiplying together the performance monitored, the conversion rate calculated, and the revenue sharing percentage received**." The method continues to recite "placing **the paid listing** in the search results Web page **based on the paid yield**."

To the contrary, the Kamangar reference is merely directed to ordering advertisements based on either a performance parameter or a price parameter associated with the advertisement.[3] As discussed in previous responses and as implicitly conceded by the Office through repeated reliance on other references, Applicants respectfully submit that the Kamangar reference fails to teach or suggest "*determining… a paid yield associated with the paid listing based on* ***multiplying together the performance monitored, the conversion rate calculated, and the revenue sharing percentage received***" as recited in claim 1.

[3] *See Kamangar reference*, Abstract.

Also contrary to claim 1, the Asayama reference is merely directed to selecting an advertisement affiliate having maximum potential referral revenue generation.[4] However, The Office appears to rely on the Asayama reference to teach or suggest features similar to "*determining... a paid yield associated with the paid listing based on* ***multiplying together the performance monitored, the conversion rate calculated, and the revenue sharing percentage received***" as recited in claim 1 in the Office's current rejection of claim 21.[5] The Office relies on ¶ [0003] of the Asayama reference to teach or suggest calculating a paid yield.[6] Applicants believe this is merely a remnant from a previous Office Action, which has previously been addressed by Applicants.

However, Applicants respectfully submit that the Asayama reference fails to teach or suggest "*determining... a paid yield associated with the paid listing based on* ***multiplying together the performance monitored, the conversion rate calculated, and the revenue sharing percentage received***" as recited in claim 1. Instead, the Asayama reference merely recites a **summation** of various factors to determine a score for a particular advertisement.[7] Consequently, it is respectfully submitted that the Asayama reference fails teach or suggest "*determining... a paid yield associated with the paid listing based on* ***multiplying*** *together the* ***performance monitored, the conversion rate calculated, and the revenue sharing percentage received***" as recited in claim 1. In support of this assertion, the Office relies on the Latona reference to teach or suggest comparable features in claims 1 and 21.[8]

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[4] *See Asayama reference*, Abstract.
[5] *See Non-final Office Action dated 06/09/2010*, p. 13.
[6] *Id.*
[7] *See Asayama reference*, ¶ [0027].
[8] *See Non-final Office Action dated 06/09/2010,* p. 4 and 14.

The Latona reference is directed to determining comparative values of advertisements.[9] The comparative values reflect user activity for each of the advertisements.[10] The Office relies on paragraphs 25, 46, and 47 of the Latona reference in support of the assertion that the Latona reference teaches or suggests "*determining... a paid yield associated with the paid listing based on multiplying together the performance monitored, the conversion rate calculated, and the revenue sharing percentage received*" as recited in claim 1.[11]

Applicants respectfully submit that the Latona reference in general, and as relied upon in particular, fails to teach or suggest "*determining... a paid yield associated with the paid listing based on multiplying together the performance monitored, the conversion rate calculated, and the revenue sharing percentage received*" as recited in claim 1. Instead, paragraph 25 of the Latona reference is directed to receiving a commission or share of revenue in return for placing an advertisement. Clearly paragraph 25 fails to determine a paid yield as defined in claim 1.

Similarly, paragraph 46 of the Latona reference is directed to a report (i.e. report 500) that contains data related to advertisements. The data may include impression count, number of clicks, number of conversions, conversion ratio, and revenue realized.[12] Paragraph 47 of the Latona reference continues to specifically identify values for data in the report 500 of the Latona reference. However, even if the report 500 of the Latona reference did include the underlying factors used to determine a paid yield as defined in claim 1, the Latona reference fails to teach or suggest utilizing any data, let alone specific data, to determine a paid yield as recited in claim 1.

Instead, at the most, the Latona reference indicates that the data of report 500 may be weighted with "specified weight values" and then compared to select and place an

[9] *See Latona reference*, Abstract.
[10] *Id.*
[11] *See Non-final Office Action dated 06/09/2010*, p. 14.

advertisement.[13] However, the Latona reference practice of weighting metrics clearly fails to teach or suggest "*determining... a paid yield associated with the paid listing based on multiplying together the performance monitored, the conversion rate calculated, and the revenue sharing percentage received*" as recited in claim 1.

Consequently, Applicants respectfully submit that the Kamangar, Asayama, and/or the Latona references, either alone or in combination, fail to teach or suggest at least "*determining... a paid yield associated with the paid listing based on multiplying together the performance monitored, the conversion rate calculated, and the revenue sharing percentage received*" as recited in claim 1.

Further, the Office relies on the Latona reference to teach or suggest "***placing the paid listing*** *in the search results Web page* ***based on the paid yield***" as also recited in claim 1.[14] In support of this assertion, the Office relies on paragraph 49 of the Latona reference.[15] However, paragraph 49 of the Latona reference is merely directed to applying specified weight values to unweighted effectiveness metric values, which are then compared to select and place an advertisement.[16] As discussed earlier, the mere weighting of a metrics by "specified weight values" fails to determine a paid yield that is defined in claim 1 as *multiplying together the performance monitored, the conversion rate calculated, and the revenue sharing percentage received.*" Consequently, the Latona reference fails to teach or suggest "*placing the paid listing in the search results Web page* ***based on the paid yield***" as recited in claim 1 for the mere fact that weighted values, as described in the Latona reference, fail to teach or suggest a paid yield as defined in claim 1.

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[12] *See Latona reference*, ¶ [0046].
[13] *See Latona reference*, ¶ [0048].
[14] *See Non-final Office Action dated 06/09/2010*, p. 4.
[15] *Id.*
[16] *See Latona reference*, ¶ [0049].

Accordingly, it is respectfully submitted that the Kamangar, Asayama, and/or the Latona references, either alone or in combination, do not teach or suggest all of the features of independent claim 1. Accordingly, Applicants respectfully request withdrawal of the rejection of claim 1 under 35 U.S.C. § 103(a). Claim 1 is believed to be in condition for allowance and such favorable action is respectfully requested.

Claims 2-8 depend directly or indirectly from independent claim 1. As such, Applicants respectfully request withdrawal of the 35 U.S.C. § 103(a) rejections of these claims as well.

**CLAIM 12**

Independent claim 12 recites features similar to those discussed above with respect to claim 1. For example, claim 12 recites, in part, "*a processor to* ***calculate a paid yield*** *associated with the paid listing* ***based on multiplying together****: [1] the performance data from the performance data repository, [2] the conversion data from the conversion data registry, and [3] the revenue sharing percentage from the revenue sharing repository.*"

Similar to claim 1, the Office relies on the Latona reference to teach "a processor to calculate a paid yield…"[17] Again, the Office relies on paragraphs 25, 46, and 47 of the Latona reference to support the assertion.[18] However, as previously discussed, the Latona reference, at the most, merely discusses the data of report 500 may be weighted and then compared to select and place an advertisement.[19] Applicants respectfully submit that the mere weighting, by a "specified weight value,"[20] in no way teaches or suggests "***calculat[ing] a paid yield*** *associated with the paid listing* ***based on multiplying together****: [1] the* ***performance data*** *from the*

[17] *See Non-final Office Action dated 06/09/2010*, p. 9.
[18] *Id.*
[19] *See Latona reference*, ¶ [0048].
[20] *See Latona reference*, ¶ [0049].

*performance data repository, [2] the* ***conversion data*** *from the conversion data registry, and [3] the* ***revenue sharing percentage*** *from the revenue sharing repository.*"

Accordingly, it is respectfully submitted that the Kamangar, Asayama, and/or the Latona references, either alone or in combination, do not teach or suggest all of the features of independent claim 12 for at least those reasons discussed with respect to claim 1. Accordingly, Applicants respectfully request withdrawal of the rejection of claim 12 under 35 U.S.C. § 103(a). Claim 12 is believed to be in condition for allowance and such favorable action is respectfully requested.

Claims 13-14 and 16-20 depend directly or indirectly from independent claim 12. As such, Applicants respectfully request withdrawal of the 35 U.S.C. § 103(a) rejections of these claims as well.

**CLAIM 21**

Independent claim 21 recites features similar to those discussed with respect to claims 1 and 12. For example, claim 21 recites, at least in part, "***calculating a paid yield,*** *wherein the paid yield is calculated by* ***multiplying*** *the performance by the conversion rate that is also multiplied by the revenue sharing percentage.*" Claims 21 also recites, in part, "*placing the paid listing on the search results user interface in exchange for at least a share of the paid yield, wherein* ***the placement, relative to a second paid listing, in the search results user interface is determined, in part, by the calculated paid yield***."

Similar to claim 1, the Office relies on the Latona reference to teach "calculating a paid yield…"[21] Again, the Office relies on paragraphs 25, 46, and 47 of the Latona reference to support the assertion.[22] However, as previously discussed, the Latona reference, at the most, merely discusses the data of report 500 may be weighted and then compared to select and place

[21] *See Non-final Office Action dated 06/09/2010*, p. 14.

an advertisement.[23] Applicants respectfully submit that the mere weighting, by a "specified weight value,"[24] in no way teaches or suggests "*calculating a paid yield, wherein the paid yield is calculated by multiplying the performance by the conversion rate that is also multiplied by the revenue sharing percentage*" as recited in claim 21.

Additionally, Applicants respectfully submit the Latona reference fails to teach or suggest "***placing the paid listing*** *on the search results user interface in exchange for at least a share of the paid yield, wherein* ***the placement, relative to a second paid listing, in the search results user interface is determined, in part, by the calculated paid yield***" as also recited in claim 21.

Because none of the reference, either alone or together, teach or suggest calculating the paid yield as defined in claim 21, it is respectfully submitted that the Latona reference cannot "***placing the paid listing..., relative to a second paid listing, in the search results user interface*** ... [based]***, in part, by the calculated paid yield***" as recited in claim 21.

Accordingly, it is respectfully submitted that the Kamangar, Asayama, and/or the Latona references, either alone or in combination, do not teach or suggest all of the features of independent claim 21 for at least those reasons discussed with respect to claim 1. Accordingly, Applicants respectfully request withdrawal of the rejection of claim 21 under 35 U.S.C. § 103(a). Claim 21 is believed to be in condition for allowance and such favorable action is respectfully requested.

Claims 24-30 depend directly or indirectly from independent claim 21. As such, Applicants respectfully request withdrawal of the 35 U.S.C. § 103(a) rejections of these claims as well.

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[22] *Id.*
[23] *See Latona reference,* ¶ [0048].
[24] *See Latona reference,* ¶ [0049].

C.) Obviousness rejection based upon Kamangar in view of U.S. Publication No. 2005/0096980 to Koningstein et al. and further in view of U.S. Patent No. 7,031,932 to Lipsky et al.

Claims 9-11 stand rejected under 35 U.S.C. § 103(a) as being obvious over the Kamangar reference in view of U.S. Publication No. 2005/0096980 to Koningstein et al. (hereinafter the "Koningstein reference"), further in view of U.S. Patent No. 7,031,932 to Lipsky et al. (hereinafter the "Lipsky reference"), and further in view of the Asayama reference. As the asserted combination of references fails to teach or suggest all of the features set forth in the rejected claims, Applicant respectfully traverses the rejection as hereinafter set forth.

Claims 9-11 depend indirectly from independent claim 1 discussed hereinabove. Applicants respectfully submit that the Koningstein reference and/or the Lipsky reference fail cure the deficiencies of the Kamangar, Asayama, and/or the Latona references as discussed above. Therefore, for at least of their dependency from claim 1, Applicants respectfully request withdrawal of the rejection of claims 9-11 under 35 U.S.C. § 103(a).

## CONCLUSION

For at least the reasons stated above, each of claims 1-14, 16-21, and 24-30 is believed to be in condition for allowance. Applicants respectfully request withdrawal of the pending rejections and allowance of the claims. If any issues remain that would prevent issuance of this application, the Examiner is urged to contact the undersigned—by telephone at 816-474-6550 or via email at cwfisher@shb.com (such communication via email is herein expressly granted)—to resolve the same prior to issuing a subsequent action.

It is believed that no fee is due in conjunction with the present communication. However, if this belief is in error, the Commissioner is hereby authorized to charge any amount required to Deposit Account No. 19-2112, referencing attorney docket number MFCP.140316.

Respectfully submitted,

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